

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SANDRA C. BARKLEY,

Plaintiff,

ORDER

-against-

04-CV-875 (KAM)

UNITED HOMES, LLC, et al.,

Defendants.

-----x
MARY LODGE,

Plaintiff,

-against-

05-CV-187 (KAM)

UNITED HOMES, LLC, et al.,

Defendants.

-----x
DEWITT MATHIS,

Plaintiff,

-against-

05-CV-4386 (KAM)

UNITED HOMES, LLC, et al.,

Defendants.

-----x
RODNEY and SYLVIA GIBBONS,

Plaintiffs,

-against-

05-CV-5302 (KAM)

UNITED HOMES, LLC, et al.,

Defendants.

-----x

-----X
MILES and LISA McDALE,

Plaintiffs,

-against-

05-CV-5362 (KAM)

UNITED HOMES, LLC, et al.,

Defendants.

-----X
CHARLENE WASHINGTON,

Plaintiff,

-against-

05-CV-5679 (KAM)

UNITED HOMES, LLC, et al.,

Defendants.

-----X
ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

On July 11, 2014, this Court held a telephone conference to discuss plaintiffs' April 4, 2014 renewed motion for contempt and attorneys' fees against defendant Yaron Hershco ("Hershco"). See Minute Entry (July 11, 2014), Electronic Case Filing ("ECF") Docket Entry ("DE") #734.¹ During the call, plaintiffs' counsel, Jean Constantine-Davis, withdrew plaintiffs' request for a contempt finding against Hershco and stated that plaintiffs would only be seeking attorneys' fees. See id.

¹ Plaintiffs' original motion for contempt was filed on March 8, 2014. See Letter Motion for Contempt (Mar. 8, 2014), DE #708. Except as otherwise noted, all "DE" references relate to the docket sheet in Barkley v. United Homes, LLC, 04-CV-875.

Three days later, on July 14, 2014, Constantine-Davis filed a “supplemental” motion for contempt, in which she sought to “correct” plaintiffs’ position regarding contempt. See Supplemental Motion for Contempt (July 14, 2014), DE #735. Constantine-Davis explains that she withdrew the request for contempt prior to speaking with plaintiffs, who, in contrast to Constantine-Davis’s position during the conference call, wish to proceed with a motion for contempt and pursue contempt remedies, such as daily coercive fines. See id. Accompanying the “supplemental” motion is a declaration of Constantine-Davis attesting to the authenticity of exhibits previously filed in April 2014. See Declaration of Jean-Constantine Davis (July 14, 2014), DE #735-1.

Hershco now objects that the July 14, 2014 submissions by plaintiffs violate the Court’s briefing schedule and seek “to obtain an unfair advantage in the submission of this motion to the Court.” See Letter in Response (July 15, 2014), DE #582.² In particular, Hershco states that, if the Court is inclined to consider the July 14, 2014 submissions and reinstate plaintiffs’ request for contempt, then Hershco should be afforded “ample time” to respond to those submissions. See id. at 2.

The Court, in its discretion, declines to strike plaintiffs’ July 14, 2014 submissions and will allow plaintiffs to proceed with their motion for contempt. To the extent that the July 14, 2014 submissions raise new legal issues not previously identified by plaintiffs in connection with their motion for contempt, Hershco may submit a letter-brief (with pertinent case law citations) responding to those newly raised legal issues.

² Hershco’s response was filed on the docket sheet of Gibbons v. United Homes, LLC, 05-CV-5302, rather than the docket sheets of all six consolidated cases.

Hershco's response, if any, is due, via ECF, no later than August 8, 2014.

SO ORDERED.

Dated: **Brooklyn, New York**
July 30, 2014

/s/ Roanne L. Mann

ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE